



Economic Impact Analysis Virginia Department of Planning and Budget

12 VAC 5-550 – Virginia Department of Health Regulations Governing Vital Records September 12, 2002

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The proposed regulations will (i) modify and update the language to reflect the current practices followed by the Virginia Department of Health Office of Vital Records (the agency), (ii) increase the fee charged to customers from \$8 to \$10 per certified copy of a vital record, (iii) provide authority to the agency to charge a \$10 fee for amendments to vital records and filing a delayed birth certificate, and (iv) allow for administratively amending a mother's name and a given name of a child on a birth certificate with supporting evidence.

Estimated Economic Impact

These regulations contain rules for filing, protecting, amending, and issuing certified copies of vital records, which include birth, marriage, divorce, and death records. The agency registers and maintains the original certificates of births, deaths, divorces, and copies of marriage certificates that occur in the Commonwealth, and provides qualified applicants with certified copies of the records associated with these events. In addition, other record services such as

filing of a delayed birth certificate, addition of a father's name to a child's birth certificate, and other types of corrections or amendments to facts shown on a certificate are provided.

According to the agency, these regulations have not been substantively updated since 1950; only minor changes were made since that time. The proposed changes will modify or update about 40 sections of the regulations. The intent of most of the proposed amendments is to improve the clarity of the language and to update it to reflect current practices followed by the agency. The major changes under this category include adding new definitions; outlining the acceptable evidence needed to file a home birth; recognizing genetic testing to add a father's name to his child's birth certificate; requiring preoperative diagnosis, postoperative diagnosis, and a description of the procedure in addition to a court order when a gender reassignment application is received; and recognizing electronic reporting of birth data directly from the hospitals. The procedures related to all of these issues are currently followed in practice and are not likely to introduce any significant additional costs. However, these clarifications may be beneficial in the sense that the public and reporting entities may be better informed about the procedures followed in practice, the public and other entities may provide valuable input on the proposed changes during the regulation development process, and consistency between procedures in practice and regulations may reduce potential losses from litigation.

Three of the proposed changes are more than mere clarifications and are likely to result in significant economic effects. As of July 2002, the agency has increased the fee it charges to its customers from \$8 to \$10 per certified copy of a vital record. A portion of this fee is retained by the agency to provide funding for automation of historical vital records. The agency recently completed the first part of the automation project, which involved entering paper versions of birth records for the 1930-1978 period in electronic format. The next stage of this ongoing automation effort is to enter birth record information for the 1912-1929 period in electronic format. Also, the agency implemented an electronic birth certificate system funded by this fund and plans to develop or purchase an electronic death registration system. Prior to July 2002, of the \$8 fee, \$4 was retained in the automation fund and the rest of the fee was transferred to the General Fund as state revenues. The monies in the automation fund are used to pay for salary, office supplies, and electronic or non-electronic equipment needed to complete the automation projects. The proposed \$2 increase in the fee is not expected to have an impact on the automation fund because all of the additional \$2 currently is and will be transferred to the

General Fund while the automation fund portion of the fee remains the same at \$4. At a minimum, the agency issued 317,825 certifications in 2001. This implies that the revenues transferred to the general fund from the collected fee should increase at least by about \$635,650 annually while the cost of obtaining a certified copy increases by \$2 for the customers. The increase in the fee is not expected to significantly affect the number of requests for certificates because most customers probably have strong incentives to obtain these records such as the need to provide a certified copy for legal purposes.

Another change that will likely be significant is the proposed \$10 fee for amendments to vital records and filing a delayed birth certificate. This change will expand the types of services the agency has the authority to charge a fee for. In 2001, the agency processed at least 19,154 amendments involving adoption, court orders, paternity, and affidavits. Thus, the agency is expected to realize an increase in its fee collections by about \$191,540 annually. Of that amount, about \$115,000 will be transferred to the General Fund and about \$77,000 will be retained by the agency for the expenses associated with amending the records. Since the costs associated with amending vital records were not covered before, but will be covered under the proposed regulations, the agency will benefit from this change. Also, the Commonwealth is likely to benefit from increased revenue transfers to the general fund. On the other hand, the costs to customers will increase by \$10 when they request an amendment or file a delayed birth certificate. This fee may provide small incentives for timely registration of births and improve the accuracy of birth statistics maintained in the Commonwealth. The number of requests for other types of amendments may not be as sensitive to the proposed fee as birth registrations because they may be most likely to be necessitated by an unpredictable event.

The last change that is expected to have significant economic effects is related to the administrative discretion that will be provided to the agency when amending birth records. With the proposed regulations, the agency will have the discretion to administratively amend a mother's maiden name on the child's birth certificate with an affidavit and her birth certificate and to amend the given name of the child/registrant with an affidavit and with acceptable evidence if the name was not known or not used by the registrant. This proposed change will reduce the costs borne by customers to make these amendments to birth records. Currently, the customers have to obtain a court order, which costs about \$500 to \$1,000 for lawyer fee to file a petition in the court to amend the incorrect information on a birth certificate and \$35 for the

court fees.¹ With the proposed change, amendments can be made administratively by paying the \$10 amendment fee. If the costs to provide evidence to the court or the agency do not vary significantly, customers will likely save about \$525 to \$1,025 per application. During 2001 the agency amended 1,315 vital events using court orders and estimates that 85% to 90% of those were based on the type of amendments that will be made administratively under the proposed changes. Thus, the number of amendments for these cases is expected to be about 1,150. Given the estimated number of amendments, the cost savings to customers may be about \$604,000 to \$1,178,750 annually.

The lawyers or law firms, the court system, and the agency are also likely to be affected by this change. The number of cases in which lawyers file a petition in the court to amend vital records will likely decrease as well as their business revenues. Based on the number of cases and the amount of fees charged by lawyers, the revenue losses to lawyers or law firms may be \$575,000 to \$1,150,000. Also, the workload of the court system will also decrease which will likely decrease court fees by about \$40,000. The agency, on the other hand, is expected to realize an increase in its fee collections by approximately \$11,500. Of that amount, about \$6,900 will be transferred to the General Fund and about \$4,600 will be retained by the agency for expenses associated with administratively amending the records.

Businesses and Entities Affected

The proposed regulations may affect about 100 hospitals, 480 funeral services, 35 local health departments, 4 medical examiner offices, numerous city and county clerk's offices, and the public. Based on the number of applications processed in 2001, over 337,000 applicants may be affected annually.

Localities Particularly Affected

The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment

The proposed authority for administrative amendments may reduce the number of court cases and may negatively affect the demand for legal services. This may have a negative impact on employment in legal services industry.

¹ Source: The Office of Vital Records, Virginia Department of Health.

Effects on the Use and Value of Private Property

If there is a significant reduction in the profits in the legal services industry, there may be a reduction in value of businesses in that industry as well.